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August 10, 2015

8/20/2015

VIA ECF

The Honorable Paul A. Crotty
USDC for Southern District of New York
500 Pearl Street, Chambers 1350
New York, New York 10007-1312

Leave to file Third Amended Complaint is granted. (reluctantly) Defendant has to move. Motion is adjourned for 60 days, unless defendant decides more to be submitted.

As ordered

Paul A. Crotty
USDC

Re: **Gao v. JP Morgan Chase & Co. and Chase Bank USA, N.A.**
Case No. 1:14-CV-4281 (PAC)

Dear Judge Crotty:

Pursuant to Your Honor's Individual Rules of Practice (Rule #3D), we write on behalf of Plaintiffs requesting leave to file a Third Amended Class Action Complaint. A copy of the proposed Third Amended Class Action Complaint is attached hereto as Exhibit A (without exhibits). Plaintiffs respectfully request that they be granted leave pursuant to Rule 15(a)(2) of the Federal Rules of Civil Procedure.

Plaintiffs seek leave of Court to file a Third Amended Class Action Complaint in order to elaborate on the facts of the case and to plead more accurately and more completely Plaintiffs' claim regarding fraudulent inducement by omission. Specifically, Plaintiffs include the additional fact that Chase charges an annual fee to consumers like the Plaintiffs in exchange for offering rewards credit cards. This fact is important because the fee is not reimbursed to consumers even after Chase decides to terminate the credit card relationship between the parties and take reward points previously earned by consumers. Second, the Third Amended Class Action Complaint now more directly addresses portions of the Court's Opinion on the Defendants' Motion to Dismiss regarding allegations of material omissions and the duty to

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disclose, which directly impact Plaintiffs' fraudulent inducement claim, among others. These two categories of additions were inadvertently excluded from Plaintiffs' Second Amended Class Action Complaint.

Plaintiffs recognize the inconvenience of the timing of this motion (after the entry of an Order scheduling the briefing deadlines) and informed Defendants on Friday, August 7, 2015 that leave would be sought. Accordingly, Plaintiffs would not oppose any reasonable extension requested by Defendants to respond to the new fraudulent inducement cause of action plead in the Second (and now Third) Amended Complaint. Leave is certainly more efficient and appropriate now than after another round of briefing, and Plaintiffs have acted as quickly as possible to fix the Complaint and best respond to the Court, at no prejudice to the Defendants.

In accordance with Rule 15(a)(2), Plaintiffs have demonstrated that "justice so requires" that they be granted leave to amend their Complaint. The purpose of this request is to ensure that the Court can make a properly informed decision on the merits of the case, both as it relates to the new fraudulent inducement claim and the other remaining causes of action. Plaintiffs stress that there is no prejudice to Defendants here and that Plaintiffs are acting diligently, in good faith, and with no undue delay.

Respectfully submitted,



Kenneth J. Grunfeld
GOLOMB & HONIK, P.C.

cc: All counsel of record (via ECF)